

**MINUTES
URBAN COUNTY PLANNING COMMISSION
ZONING ITEMS PUBLIC HEARING**

January 27, 2011

- I. **CALL TO ORDER** – The meeting was called to order at 1:34 p.m. in the Council Chamber, 2nd Floor LFUCG Government Center, 200 East Main Street, Lexington, Kentucky.

Planning Commission members present: Carla Blanton; Marie Copeland; Mike Cravens; Ed Holmes; Mike Owens; Carolyn Richardson, Chair; Lynn Roche-Phillips; and William Wilson. Absent were Eunice Beatty, Patrick Brewer, and Derek Paulsen.

Planning staff members present: Chris King, Director; Bill Sallee; Barbara Rackers; Jimmy Emmons; Traci Wade; Tom Martin; Cheryl Gallt; and Stephanie Cunningham. Other staff members present were: Bob Carpenter, Division of Building Inspection; Captain Charles Bowen, Division of Fire and Emergency Services; Rochelle Boland, Department of Law; Steve Parker, Division of Engineering; and Tim Queary, Urban Forester.

- II. **APPROVAL OF MINUTES** – A motion was made by Mr. Wilson, seconded by Mr. Owens, and carried 8-0 (Beatty, Brewer, and Paulsen absent) to approve the minutes of the November 11, 2010; December 9, 2010; December 16, 2010; and January 13, 2011, meetings.

III. **POSTPONEMENTS AND WITHDRAWALS**

1. **IOTA NU HOUSE CORPORATION OF ALPHA PHI INTERNATIONAL FRATERNITY, INC. (AMD.), ZONING MAP AMENDMENT & LYNDHURST PLACE BLOCK C, LOTS 4 & 5 ZONING DEVELOPMENT PLAN**

- a. MARC 2010-14: IOTA NU HOUSE CORPORATION OF ALPHA PHI INTERNATIONAL FRATERNITY, INC. (AMD.) (1/27/11)* - amended petition for a zone map amendment from a High Density Apartment (R-4) zone to a High Rise Apartment (R-5) zone, for 0.45 net (0.53 gross) acre, for property located at 253, 255 & 261 East Maxwell Street. A conditional use permit has also been requested in conjunction with this zone change.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 1) recommends Downtown Master Plan (DTMP) future land use for the subject property. The petitioner proposes the rezoning in order to construct a sorority house, which is a conditional use in the High Rise Apartment (R-5) zone.

The Zoning Committee Recommended: **Disapproval of the rezoning request**, for the reasons provided by staff on December 2, 2010.

The Staff Recommends: **Disapproval**, for the following reasons:

1. The requested High Rise Apartment (R-5) zone is not in agreement with the 2007 Comprehensive Plan, for the following reasons:
 - a. The subject property is recommended for Downtown Master Plan (DTMP) land use. The 2007 Comprehensive Plan states that the Planning Commission should consider the recommendations of the 2001 Comprehensive Plan as well as other relevant current information to guide redevelopment decisions. The land use recommendation, carried forward from the 2001 Plan, is for High Density Residential, defined as up to 25 dwelling units per net acre. The proposed sorority house would have an equivalent density of 26.6 dwelling units per acre (with 49 occupants).
 - b. The DTMP further recommends for the College Town precinct that alterations and demolitions to existing buildings be minimized. The applicant's proposal is to demolish all three existing residential dwellings; but none of these structures has a history of Code Enforcement violations, nor do these properties appear to be in a state of disrepair.
 - c. The DTMP further recommends for the College Town precinct that, "Important to the successful development of the area is the retention of old and historic buildings and the development of housing and retail space that not only increases density, but also responds to the surrounding architectural character." The proposed structure would be out of scale with the existing surrounding buildings within this block face, and would be out of character with the area. The proposed building, with a primary wall façade of over 100 feet in length, will be the largest building in this otherwise intact residential block. The size of the building will be more than double that of any of the other buildings, and will comprise nearly 1/3 of the entire block front.
2. The existing R-4 zoning is appropriate, and the proposed R-5 zoning is inappropriate, for the subject properties because:
 - a. The properties are completely surrounded by existing R-4 zoning.
 - b. The existing duplexes and 4-plex on these three properties yield a residential density of 17.7 dwelling units per acre, as recommended by the Land Use Element of the 2001 and 2007 Comprehensive Plans.
 - c. Approval of the R-5 zoning encourages the demolition of the existing residential structures on 253, 255, & 261 E. Maxwell Street, which is in disagreement with the DTMP. Retention of the existing buildings would further the recommendations of the DTMP.
3. There has not been a major unanticipated change of an economic, physical, or social nature within the area involved that was not anticipated by the Comprehensive Plan and that might have changed the basic character of the area.

* - Denotes date by which Commission must either approve or disapprove request.

b. REQUESTED CONDITIONAL USE

REQUESTED CONDITIONAL USE

1. Sorority House

The Staff Recommends: **Approval of the requested conditional use permit**, for the following reasons:

- a. Should the subject property be rezoned to R-5, granting the requested conditional use permit should not adversely affect the subject or surrounding properties. Historically, sorority houses have not been perceived as inherently noisy or otherwise disturbing as fraternity houses, with the possible exception of their "rush week" parties for membership recruitment (held every August). A sorority house at this location would be compatible with the long-standing sorority located on the opposite side of East Maxwell Street, with the fraternity house located on the corner of Stone Avenue, and with the buildings across the street on the UK campus.
- b. The amount of off-street parking is no longer proposed to be less than the minimum requirement for the requested conditional use; but, more realistically, it is still insufficient for a 49-resident sorority house. Since off-street parking in this neighborhood is very limited, it is important to recognize that on-street parking is available on evenings and weekends directly across East Maxwell Street from this location, and nearby (to the south) in a Permit-parking lot controlled by the University of Kentucky. These two existing conditions should serve to minimize any potential detrimental impact of this use to the surrounding neighborhood.
- c. All necessary public facilities and services are available and adequate for the proposed use.

This recommendation of approval is made subject to the following conditions:

1. Provided the Urban County Council rezones the property R-5; otherwise, any Commission action of approval is null and void.
 2. The sorority shall be established in accordance with the submitted Zoning Development Plan, or as further amended by the Planning Commission.
 3. All necessary permits shall be obtained from the Division of Building Inspection prior to any demolition and construction, and prior to occupancy of the building.
 4. The design of the proposed parking lot, including the two proposed access points, shall be subject to review and approval by the Division of Traffic Engineering.
 5. The off-street parking lot shall be paved, with spaced delineated, and landscaped in accordance with the requirements of Articles 16 and 18 of the Zoning Ordinance.
 6. Any outdoor pole lighting shall be of a design where light is shielded from adjoining properties, and/or directed downward in a fashion that will minimize any disturbances from adjoining dwellings to the north, east and west. Such lighting shall have a maximum height of 12'.
 7. The sorority house shall provide no more than 50 beds for university students at this facility.
 8. Any members driving to this sorority during meetings and/or social events shall be encouraged to park their vehicles on East Maxwell Street, or in university-controlled parking areas to the south and west of this site. Copies of these written instructions shall be provided to the Division of Building Inspection on an annual basis.
- c. ZDP 2010-80: LYNDHURST PLACE, BLOCK C, LOTS 4 & 5 (1/27/11)* - located at 253, 255 & 261 East Maxwell Street.
(Vision Engineering)

The Subdivision Committee Recommended: Referral. There were questions regarding the parking layout, landscaping and building code compliance.

The Staff Recommended: Approval, subject to the following requirements:

1. Provided the Urban County Council rezones the property R-5; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm sewers, sanitary sewers and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. Denote: No building permits shall be issued unless and until a final development plan is approved by the Planning Commission.
7. Provided the Planning Commission grants the requested variances.
8. Denote height of proposed building.
9. Denote proposed open space.
10. Denote storm water detention off site.
11. Delete note #8.
12. Denote proposed and/or existing easements.
13. Addition of access drive dimensions.
14. Discuss 48" Pin Oak protection.
15. Discuss open space compliance.
16. Discuss transit stop parking reduction (300') and parking compliance.

* - Denotes date by which Commission must either approve or disapprove request.

Petitioner Representation: Bruce Simpson, attorney, was present representing the petitioner. He stated that the petitioner has been in discussion about the choosing an alternate location for the proposed sorority house, and would like to postpone this request for one month in order to continue those discussions.

Citizen Comment: There were no citizens present who wished to comment on this request for postponement.

Action: A motion was made by Mr. Holmes, seconded by Mr. Cravens, and carried 8-0 (Beatty, Brewer, and Paulsen absent) to postpone MARC 2010-14 and ZDP 2010-80 to the February 24, 2011, Planning Commission meeting.

2. SCW NEWTOWN, LLC, ZONING MAP AMENDMENT & A-1 SANITATION SERVICE, INC. & EDSTER PROPERTY ZONING DEVELOPMENT PLAN

- a. MAR 2011-1: SCW NEWTOWN, LLC (2/27/11)* - petition for a zone map amendment from a Highway Service Business (B-3) zone to a Wholesale & Warehouse Business (B-4) zone, for 1.083 net and gross acres, for property located at 763 & 779 Newtown Pike (portions of).

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 2) recommends Retail, Trade and Personal Services (RT) land use for the subject property. The property is also located within the Central Sector Small Area Plan boundary. The petitioner proposes to rezone the property in order to construct warehouses and shops of special trade, and associated off-street parking.

The Zoning Committee did not make a recommendation on this item, due to the lack of a quorum at their January meeting.

The Staff Recommended: **Approval**, for the following reasons:

1. The existing Highway Service Business (B-3) zone is inappropriate for the rear portion of the subject property because it is set back 200 feet from the public right-of-way with inadequate visibility and poor vehicular access, at present. These assets are typically necessary for a retail, trade or personal service business to succeed, as is recommended by the 2007 Comprehensive Plan.
2. The proposed Wholesale and Warehouse Business (B-4) zone is appropriate for the subject property because the proposed warehouse use is less intense than what could be developed on the property, with no Planning Commission review, in close proximity to an existing elementary school and mobile home park. In this case, a limited B-4 zone is an appropriate transition between the commercial Newtown Pike corridor and the public park, elementary school and community swimming pool.
3. The proposed redevelopment is consistent with the Central Sector Small Area Plan, which was recently adopted by the Planning Commission, in that neighborhood economic development is proposed that can spur further investment in the neighborhood. It also still allows for a retail, personal service or restaurant use to occupy the front portion of the subject property along Newtown Pike, thereby further supporting the neighborhood.
4. This recommendation is made subject to the approval and certification of ZDP 2011-3: A-1 Sanitation Service, Inc. & Edster Property, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
5. Under the provisions of Article 6-7 of the Zoning Ordinance, this property shall be subject to the following use and buffering restrictions via conditional zoning:

PROHIBITED USES:

- a. Ice Plants.
- b. Tire re-treading and re-capping.
- c. Sales of feed and grain or other agricultural supplies (except for offices for such sales).
- d. Establishments and lots for display, rental, repair or sale of farm equipment, automobiles, trucks, mobile homes, recreational vehicles, motorcycles or boats.
- e. Truck terminals and freight yards.
- f. Automobile service stations.
- g. Establishments for the display and sale of pre-cut, pre-fabricated, or shell homes.
- h. Circuses and carnivals.
- i. Pawn shops.
- j. Mining.
- k. Kennels and animal hospitals.
- l. Major and minor automobile and truck repair, except for vehicles used accessory to the business.
- m. Parking lots and structures as principal uses.

LANDSCAPE & BUFFERING RESTRICTIONS:

- a. A 50-foot building setback shall be established from any mobile home (at their present locations; excluding any porches, stairs or attached accessory structures) located within the mobile home park to the north of the subject property.

* - Denotes date by which Commission must either approve or disapprove request.

- b. A 5-foot land use buffer area shall be provided along the property line adjoining the park and school (A-U zone), and a 10-foot land use buffer area shall be provided along the property lines adjoining the mobile home park (B-3 zone). Existing trees (except for diseased and damaged ones) shall be preserved in these buffer areas.
- c. A 6-foot tall privacy fence shall be provided along all property lines adjoining the park, school or mobile home park. A 3-foot tall hedge shall be provided along the property line adjoining the park and school (A-U zone).
- d. There shall be no outside loudspeakers.
- e. There shall be no overhead doors within 100 feet of any mobile home (at their present locations; excluding any porches, stairs or attached accessory structures).
- f. Exterior lighting shall be designed to prevent light shining directly from the source to the adjoining mobile home park to the north.

These use and buffer restrictions are appropriate and necessary at this location to ensure that the proposed commercial development of the rear portion of the subject property will not negatively impact either the existing residential uses in this area or the established public uses on the adjoining property.

- b. ZDP 2011-3: A-1 SANITATION SERVICE, INC. & EDSTER PROPERTY (2/27/11)* - located at 763 & 779 Newtown Pike.
(J.E. Black)

The Subdivision Committee Recommended: **Postponement**. There were questions regarding the buffering and the proximity of overhead doors to nearby mobile homes.

Should this plan be approved, the following requirements should be considered:

1. Provided the Urban County Council rezones the property B-4; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. Denote proposed detention area.
7. Denote construction access location.
8. Clarify proposed pedestrian access to Newtown Pike.
9. Denote: No development of B-3 area until a final development plan is approved by the Planning Commission.
10. Addition of existing and proposed utility easements.
11. Discuss the landscaping and tree preservation adjacent to park boundary.
12. Discuss the landscape screening adjacent to the mobile home park.
13. Denote no access to Earl Court.
14. Discuss the compact parking proposed on the east side of Building A.
15. Discuss the gravel area west of Building A.
16. Discuss the proposed Building B overhead doors adjacent to the mobile home park.
17. Discuss the plan status.

Petitioner Representation: Mark Reinhardt, representative for the petitioner, requested a one-month postponement of this zone change request.

Citizen Comment: There were no citizens present who wished to comment on this request for postponement.

Action: A motion was made by Mr. Owens, seconded by Mr. Cravens, and carried 8-0 (Beatty, Brewer, and Paulsen absent) to postpone MAR 2011-1 and ZDP 2011-3 to the February 24, 2011, Planning Commission meeting.

IV. LAND SUBDIVISION ITEMS - The Subdivision Committee met on Thursday, January 6, 2011, at 8:30 a.m. The meeting was attended by Commission members: Mike Cravens, Mike Owens, Marie Copeland and Derek Paulsen. Committee members in attendance were: Hillard Newman, Division of Engineering; and Jim Gallimore and Jeff Neal, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee, Tom Martin, Cheryl Gallt, Chris Taylor, Barbara Rackers, Traci Wade and Denise Bullock, as well as Captain Charles Bowen, and Firefighter Allen Case, Division of Fire & Emergency Services; Rochelle Boland, Law Department and Bob Carpenter, Division of Building Inspection. The Committee made recommendations on plans as noted.

General Notes

The following automatically apply to all plans listed on this agenda unless a waiver of any specific section is granted by the Planning Commission.

1. All preliminary and final subdivision plans are required to conform to the provisions of Article 5 of the Land Subdivision Regulations.
2. All development plans are required to conform to the provisions of Article 21 of the Zoning Ordinance.

A. DISCUSSION ITEMS – Following requests for postponement and withdrawal, the remaining items will be considered.

The procedure for consideration of these remaining plans is as follows:

- Staff Report(s)

* - Denotes date by which Commission must either approve or disapprove request.

- Petitioner's Report(s)
- Citizen Comments – (a) in support of the request, and (b) in opposition to the request
- Rebuttal – (a) petitioner's comments, (b) citizen comments, and (c) staff comments
- Commission discusses and/or votes on the plan

V. **ZONING ITEMS** - The Zoning Committee met on Thursday, January 6, 2011, at 1:30 p.m. in the Division of Planning Office. The meeting was attended by Commission members Carla Blanton and Carolyn Richardson. The Committee reviewed applications, but was unable to make recommendations on any items as there was no quorum.

A. ABBREVIATED PUBLIC HEARINGS ON ZONE MAP AMENDMENTS AND RELATED PLANS

The staff will call for objectors to determine which petitions are eligible for abbreviated hearings.

Abbreviated public hearings will be held on petitions meeting the following criteria:

- The staff has recommended approval of the zone change petition and related plan(s)
- The petitioner concurs with the staff recommendations
- Petitioner waives oral presentation, but may submit written evidence for the record
- There are no objections to the petition

B. FULL PUBLIC HEARINGS ON ZONE MAP AMENDMENTS AND RELATED PLANS – Following abbreviated hearings, the remaining petitions will be considered.

The procedure for these hearings is as follows:

- Staff Reports (30 minute maximum)
- Petitioner's report(s) (30 minute maximum)
- Citizen Comments
 - (a) proponents (10 minute maximum OR 3 minutes each)
 - (b) objectors (30 minute maximum) (3 minutes each)
- Rebuttal & Closing Statements
 - (a) petitioner's comments (5 minute maximum)
 - (b) citizen objectors (5 minute maximum)
 - (c) staff comments (5 minute maximum)
- Hearing closed and Commission votes on zone change petition and related plan(s)

Note: Requests for additional time, stating the basis for the request, must be submitted to the staff no later than two days prior to the hearing. The Chair will announce its decision at the outset of the hearing.

1. WML PROPERTIES, LLC, ZONING MAP AMENDMENT & SOUTH HILL GARDEN ZONING DEVELOPMENT PLAN

- MARV 2011-2: WML PROPERTIES, LLC (AMD.) (2/27/11)* – amended petition for a zone map amendment from a Townhouse Residential (R-1T) zone to a Planned Neighborhood Residential (R-3) zone, for 0.299 net (0.420 gross) acre, for property located at 412 South Mill Street (a portion of). Dimensional variances have also been requested in conjunction with this zone change.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 5) recommends High Density Residential future land use for the subject property. The petitioner proposes R-3 zoning in order to construct one single family residence and three townhomes, for a residential density of 13.38 dwelling units per net acre.

The Zoning Committee did not make a recommendation on this item, due to the lack of a quorum at their January meeting.

The Staff Recommended: **Approval**, for the following reason:

- The requested Planned Neighborhood Residential (R-3) zone for the desired single-family home is in agreement with the 2007 Comprehensive Plan and the Newtown Pike Extension Corridor Plan, an adopted element of the Comprehensive Plan, for the following reasons:
 - The Plan recommends High Density Residential land use for this block, which is defined as 10–25 dwelling units per net acre.
 - The petitioner has requested to develop a total of four residential dwelling units on 0.299 net acres, resulting in a density of 13.38 dwelling units per net acre. This is in agreement with the High Density Residential land use recommendation of the Plan.
- This recommendation is made subject to approval and certification of ZDP 2011-2: South Hill Garden, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

* - Denotes date by which Commission must either approve or disapprove request.

3. Under the provisions of Article 6-7 of the Zoning Ordinance, the subject property shall be limited to the following use restrictions via conditional zoning:
 - a. A maximum of three dwelling units shall be permitted.
 - b. The property shall only be developed as a detached single-family residence, a two-family residence (duplex), or for no more than three attached single-family (townhouse) dwelling units.

These use restrictions are appropriate as they have been offered by the applicant, in order to maintain a character and density consistent with surrounding residential properties, and to assure development in accordance with the Comprehensive Plan.

b. DIMENSIONAL VARIANCES

REQUESTED VARIANCES

1. Front Yard Variance from a minimum of 20 feet to 5 feet.
2. Driveway Width Variance (in the front yard) from a maximum of 10 feet to 20 feet.

c. ZDP 2011-2: SOUTH HILL GARDEN (2/27/11)* - located at 412 South Mill Street. (Wheat & Ladenburger)

Note: The purpose of this amendment is to permit a new single family dwelling unit.

The Subdivision Committee Recommended: **Approval**, subject to the following requirements:

1. Provided the Urban County Council rezones the property R-3; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
3. Urban County Traffic Engineer's approval of street cross-sections and access.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Addressing Office's approval of street names and addresses.
6. Urban Forester's approval of tree protection plan.
7. Denote storm water detention off site.
8. Addition of floor area ratio and lot coverage to site statistics (R-3 area).
9. Clarify area of proposed zone change (solid lines).
10. Denote Board of Architectural Review's approval of 427 Lawrence Street residence.
11. Identify sidewalks from dwelling units to Lawrence Street.
12. Denote height of garage.
13. Discuss metes and bounds of proposed R-3 area.
14. Discuss front yard and rear yard variance for 427 Lawrence Street.
15. Discuss buffering and use of driveway.
16. Discuss timing of subdivision plan and building permit for single family dwelling.

Zoning Presentation: Ms. Wade presented this staff report on this rezoning request, briefly orienting the Commission to the location of the subject property. She noted that the property faces Lawrence Street, but it has a Mill Street address. The subject property is part of the South Hill Historic District, and was part of a large downzoning in the South Hill area in 1997. In the vicinity of the subject property, there are B-1 zoning and land uses along West Maxwell Street, and residential zoning and land use along the other three sides of the parcel. There are a large number of mixed-use properties in the South Hill neighborhood, and a variety of residential densities along Lawrence Street. Ms. Wade displayed several aerial and street-level photographs of the subject property and surrounding area.

Ms. Wade stated that the subject property, which was formerly the rear yard for four structures that have frontage on South Mill Street, is currently vacant. Those properties were rezoned to R-1T in 2005, and the existing structures were to remain, while the rear portion of the lots was proposed for development. As part of the 2005 rezoning, the applicant proposed to construct six townhomes, in two groups of three with open space between them. The current proposal for the subject property is to develop one single-family home and three townhouses. Ms. Wade noted that the proposed single-family home would be located closer to Pine Street, while the three townhouses would be located closer to West Maxwell Street. The applicant is proposing R-3 zoning for the subject property, rather than R-1T, in order to allow for more flexibility in housing types. The proposed single-family residence would not be permitted on the subject property if it remained R-1T.

Ms. Wade stated that the 2007 Comprehensive Plan recommends High Density Residential land use for the subject properties, which are located within the area included in the Newtown Pike Corridor Extension Plan. The Comprehensive Plan defines High Density Residential land use as 10 – 25 dwelling units per net acre. Although the petitioner is proposing to reduce the planned density on the subject property by two units, the resulting density of 13.38 units per acre would fall within the range recommended by the Plan. Ms. Wade said that the petitioner is

* - Denotes date by which Commission must either approve or disapprove request.

proposing conditional zoning restrictions to limit development on the subject property to single-family detached homes, duplexes, and townhomes, which would eliminate the possibility of a multi-family structure on the property.

Ms. Wade stated that, since the subject property is located within a historic overlay district, the Board of Architectural Review will review the design of any development on the property, which must be in compliance with their design guidelines. Because of that extra level of review by the BOAR, the staff was reassured that the proposed development on the property will be in keeping with the existing character of the Lawrence Street area. Ms. Wade referred to the supplemental staff report, noting that the staff's original recommendation was for approval of the portion of the property that would contain the single-family home, and disapproval for the townhouse portion. The staff's original report stated that the townhomes could not be constructed as they appeared on the approval final development plan if the property was rezoned to R-3, because of floor area and lot coverage requirements. Since the Zoning Committee meeting three weeks ago, the staff has re-reviewed the 1983 revisions to the Zoning Ordinance and met with the Department of Law. As a result of those meetings, the staff has determined that there was a change in the interpretation of the Ordinance. The 1975 Zoning Ordinance did not require a review of the floor area ratio when townhomes were constructed in the R-3 zone. The 1983 rewrite does not appear to have intended for that requirement to apply. For that reason, the staff has revised its recommendation of this proposed zone change, and now supports the entirety of this request, for the following reason:

1. The requested Planned Neighborhood Residential (R-3) zone is in agreement with the 2007 Comprehensive Plan and the Newtown Pike Extension Corridor Plan, an adopted element of the Comprehensive Plan, for the following reasons:
 - a. The Plan recommends High Density Residential land use for this block, which is defined as 10–25 dwelling units per net acre.
 - b. The petitioner has requested to develop a total of four residential dwelling units on 0.299 net acre, resulting in a density of 13.38 dwelling units per net acre. This is in agreement with the High Density Residential land use recommendation of the Plan.
2. This recommendation is made subject to approval and certification of ZDP 2011-2: South Hill Garden, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the subject property shall be limited to the following use restrictions via conditional zoning:
 - a. A maximum of ~~three~~ six dwelling units shall be permitted.
 - b. The property shall only be developed as ~~a detached single-family residences~~, a two-family residences (duplex), or ~~for~~ with no more than ~~three~~ six attached single-family (townhouse) dwelling units.

These use restrictions are appropriate, as they have been offered by the applicant in order to maintain a character and density consistent with surrounding residential properties, and to assure development in accordance with the Comprehensive Plan.

Ms. Wade noted that the Zoning Committee met three weeks ago, but did not make a recommendation on this zone change request due to lack of a quorum.

Development Plan Presentation: Mr. Martin presented the corollary zoning development plan, referring to a rendered copy of the plan. He said that the petitioner proposes to construct a two-story house, over 3,300 square feet in size, with an attached garage. This development plan also includes three townhouses, which were previously approved on the most recent final development plan for the property. Mr. Martin referred to the areas of the property that were proposed for variances, noting that one of the requested variances relates to the function of the driveway.

Mr. Martin stated that the Subdivision Committee recommended approval of this plan. Subsequent to that meeting, the petitioner submitted a revised plan, and the staff prepared a revised recommendation accordingly, subject to the following conditions:

1. Provided the Urban County Council rezones the property R-3; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
3. Urban County Traffic Engineer's approval of street cross-sections and access.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Addressing Office's approval of street names and addresses.
6. Urban Forester's approval of tree protection plan.
7. Denote storm water detention off site.
8. ~~Addition of floor area ratio and lot coverage to site statistics (R-3 area):~~ Remove heavy black line from around 412 South Mill Street.
9. ~~Clarify area of proposed~~ Reduce the width of the heavy black line that delineates the area of the zone change (solid lines).

* - Denotes date by which Commission must either approve or disapprove request.

10. Denote Board of Architectural Review's approval of 427 Lawrence Street residence.
11. Identify sidewalks from dwelling units to Lawrence Street.
- ~~12. Denote height of garage.~~
- ~~13. Discuss notes and bounds of proposed R-3 area.~~
14. Discuss ~~Discuss~~ Provided the Planning Commission grants a front yard and ~~rear yard~~ driveway width variance for 427 Lawrence Street.
- ~~15. Discuss buffering and use of driveway.~~
16. Discuss ~~Denote~~ timing of subdivision plan and building permit for single family dwelling.

Mr. Martin said that several of the original conditions had been met with the submission of the revised plan. With regard to condition #16, Mr. Martin stated that a subdivision plat had been filed for the subject property, and one small section has been recorded. The staff would like for the timing of the building permit to be noted in order to ensure the construction of the required public improvements. Mr. Martin noted that, should the Commission choose to adopt the proposed conditional zoning restrictions, a new condition #14 should be added to denote those restrictions.

Commission Questions: Ms. Copeland asked if the proposed zone change would allow six dwelling units on the subject property. Mr. Martin answered that up to six dwelling units could be permitted, but this development plan only proposes four units. Ms. Copeland asked if three more dwelling units could be constructed in place of the single family residence, should that building be destroyed by fire. Mr. Martin answered that that was possible, but the petitioner would be required to amend the development plan. Ms. Copeland asked if the proposed open space on the property could become buildable area. Mr. Martin responded that that was also possible, but would be subject to the Commission's approval of an amended plan. He added that any such revision would also require the approval of the Board of Architectural Review.

Ms. Roche-Phillips asked if the subject property was currently vacant. Mr. Martin answered that it is currently vacant. She then asked how long it had been vacant. Ms. Wade responded that, since the 2005 rezoning of the subject property, a commercial-type garage that faced Lawrence Street had been removed, and that a residential garage that was located directly behind 408 South Mill Street had also been demolished.

Mr. Owens asked, with regard to the public improvements to Lawrence Street, if the staff had a preference as to when those will be constructed. Mr. Martin answered that the staff, along with the Division of Engineering, could work with the petitioner to determine the timing of those improvements due to the constraints of this particular property.

Mr. Holmes asked if sidewalks would be included in the public improvements. Mr. Martin responded that sidewalks already existed in the area. Mr. Holmes asked how the construction of new curbs and gutters would be tied into the existing infrastructure. Mr. Martin answered that that would be part of the discussion of the timing of the improvements.

Ms. Copeland asked Mr. Martin to clarify the driveway accesses as they were depicted on the development plan. Mr. Martin referred to the rendered plan, and noted that a separate driveway is proposed to serve the new single-family residence, in addition to the driveways for the proposed townhouses. Ms. Copeland said that it appeared that a tree would have to be removed in order to accommodate the construction of a driveway. Mr. Martin responded that the tree was located in the general area of a driveway, and it could be impacted.

Department of Law Comments: Ms. Boland noted that the petitioner would not be permitted to remove any tree above 10" caliper without the approval of the BOAR. If the tree to which Ms. Copeland was referring was determined to be a significant tree, the BOAR would have to review and act upon its removal.

Commission Comments: Ms. Copeland stated that she did not see why the driveway needed to be located in an area that would impact a tree. Mr. Martin responded that that driveway currently existed on the property, and that no change was proposed to that portion of the property.

Variance Presentation: Mr. Emmons presented the staff report on the variance, stating that the petitioner was requesting to reduce the front yard setback from 20' to 5' for the single-family home; and a variance to the driveway width for the single-family home from a maximum of 10' to a maximum of 20'. He said that the petitioner originally requested a variance for the driveway width from 10' to 12', and the staff initially recommended postponement of that request. Subsequently, the petitioner had requested the current variance, and the staff had drafted a revised report, accordingly.

Mr. Emmons stated that, since the lot for the proposed single-family home would be a new lot, it would be required to meet the 20' building line requirement. He displayed several photographs of the subject property and surrounding area, to further orient the Commission to the features of the property and the areas proposed for variances. Mr. Emmons said that the staff is recommending approval of that request, since the proposed townhouses were previously approved with a 5' building line. He noted that all of the existing and proposed building lines along

* - Denotes date by which Commission must either approve or disapprove request.

Lawrence Street are near 5', which would allow the new single-family home to be compatible with the character of the area.

Mr. Emmons stated, with regard to the proposed variance to the driveway width, that Article 1 of the Zoning Ordinance defines the driveway as the area from the right-of-way to the building line. If the requested variance is granted for a 5' building line on the subject property, the driveway would therefore be 5' by 20' in size. The staff agreed with the petitioner's revised justification that the new driveway would be compatible with the existing non-conforming 20' driveway, which was used for the commercial garage that used to exist on the property. Since the subject lot is approximately twice as wide as the typical lot in the South Hill neighborhood, the staff does not believe that the proposed 20' driveway would be out of scale. Mr. Emmons added that, since the subject property is within a local Historic District, the Board of Architectural Review will have the final approval of the proposed driveway. He said that the staff is recommending approval of the two proposed variances, for the following reasons:

1. Granting the requested variances should not adversely affect the public health, safety or welfare, nor alter the character of the general vicinity. In regards to the front yard variance, the primary wall plane of the single family dwelling will be constructed at the same setback as has been approved previously on the certified Final Development Plan for the subject property. In regards to the driveway width, there is an existing non-conforming driveway on the subject property that will be removed with the development of the proposed townhomes. Thus the ultimate outcome is expected to remain the same as today, with one driveway wider than permitted along this section of Lawrence Street.
2. Approval of the variances will not result in an unreasonable circumvention of the Zoning Ordinance. The purpose of the ordinances related to infill and redevelopment is to encourage rehabilitation and compatible new development. In the case for the front yard, the rezoning with the requested variance will observe similar setbacks to those existing in the immediate area. The lot will also be double the width of other single-family lots in the Historic South Hill Neighborhood; but the driveway will only be a fraction of that frontage, like most other properties in the immediate vicinity.
3. The special circumstances that apply to the subject properties are the relatively shallow depth and large width of this residential infill lot, and the fact that other front yards along Lawrence Street are very shallow in depth.
4. Strict application of the requirements of the Zoning Ordinance would create an unnecessary hardship to the applicant, and would make the proposed residence out of character with the surrounding neighborhood if it were set back 20 feet from the right-of-way. Likewise, if the driveway length is only 5 feet, the applicant's maneuverability to access the proposed two-car garage would be severely limited.
5. The circumstances surrounding this request are not the result of actions taken by the applicant since the adoption of the Zoning Ordinance. In fact, this neighborhood area was developed long before the city's first Zoning Ordinance was enacted. This subject site is clearly constrained by its shallow depth from the right-of-way of Lawrence Street.

This recommendation of approval is made subject to the following conditions:

- a. Provided the Urban County Council rezones the property R-3; otherwise, any Commission action of approval of this variance is null and void.
- b. Should the property be rezoned, it shall be redeveloped in accordance with the approved Development Plan, or as amended by a future Development Plan approved by the Commission, or as a Minor Amendment permitted under Article 21-7 of the Zoning Ordinance.
- c. A note shall be placed on the Zoning Development Plan indicating the variance that the Planning Commission has approved for this property (under Article 6-4(c) of the Zoning Ordinance).

Petitioner Representation: Rena Wiseman, attorney, was present representing the petitioner. She stated that the petitioner was in agreement with the staff's recommendations for the requested zoning, variances, and development plan.

Ms. Wiseman stated that the subject property represents the last phase of the significant redevelopment of Lawrence Street, which began in 2002. The Center Court development near Bolivar Street was the first part of the redevelopment; the South Hill Crossing townhomes were the second part; two single-family detached townhomes across from South Hill Crossing was the third part; and the proposed Cigar Flats development would comprise the fourth part of the redevelopment. Lawrence Street used to serve as little more than a back alley; but, due to the extensive redevelopment, it is now a thriving residential section of the South Hill neighborhood.

Ms. Wiseman stated that the purpose of this rezoning request is to permit the construction of the single-family detached home on the subject property, since that would not be allowed under the existing R-1T zoning. The proposed R-3 zone will allow single-family detached homes as well as townhomes and duplexes. If the Commission chooses to approve the proposed conditional zoning restrictions, the maximum number of dwelling units on the property would be six, whether or not the property develops according to the development plan that is before them today.

* - Denotes date by which Commission must either approve or disapprove request.

With regard to the proposed variances, Ms. Wiseman stated that the required 20' front yard for the single-family home would severely restrict the use of the property and would be out of character with the other buildings in the area. There are currently two non-conforming driveways on the subject property, which were used by the former commercial garages that were located there. Since the purchaser of the single-family home is proposing to construct a two-car garage, the required driveway width would limit maneuverability to and from that garage.

Ms. Wiseman noted that the approval of the Board of Architectural Review will be required for the site prior to the issuance of any building permits. She said that the petitioner proposes to construct the single-family home first, and that there is currently no time frame proposed for the townhomes. The petitioner is aware that sidewalks, curbs, and gutters will need to be constructed along the entire length of the property, and believes that the timing of that construction would be best decided at the time of the final development plan. Ms. Wiseman concluded her presentation by requesting approval of the rezoning request, variances, and development plan.

Commission Questions: Ms. Copeland asked if the green space on the subject property as proposed on the current plan, could be a buildable space. Ms. Wiseman responded that it could, but it would require the approval of an amended development plan by the Planning Commission, as well as the approval of a revised site plan by the BOAR.

Commission Comments: Ms. Copeland suggested that the Planning Commission require that the open space on the subject property to be kept visible to pedestrians and visually shared. Ms. Copeland then gave a visual presentation using about 20 various photos and renderings of local historical properties to demonstrate the various impacts, considerations, trade-offs, and opportunities for mitigation, that would occur should the five foot Lawrence Street setback building line be adopted. She said that she would like to require, as part of the approval of the requested variance, that the petitioner not be allowed to construct a brick wall that would block the view of the side yard.

Ms. Copeland said that the height, or rather, the pix of the windows is another important consideration in this case. In the past, when homes, not offices, were intentionally built very close to the sidewalk, first story window sills were frequently placed higher than eye level to prevent pedestrians on the sidewalk from peering into the windows. As noise travels horizontally, raising the window sill also reduces the conduction of street noise and makes for a quieter interior in the home.

Ms. Copeland said that she believed that requiring the use of trees that form a canopy over the sidewalk can bring down the scale of the construction and make the view shed of the street more pleasant for pedestrians. Using a typical street tree with a rounded canopy would not be satisfactory in this application but a "columnar" variety of street tree would work and she showed photo examples of this type of planting. She suggested that the Planning Commission also require that the subject property's side yard be "green space" that was open to pedestrian views.

Petitioner Comments: Bill Lear, petitioner, stated that he would like to have the opportunity to respond to Ms. Copeland's comments. He stated that the layout of the subject property should be directed by the BOAR, rather than the Planning Commission, since the subject property is located within a Historic District. With regard to the requested variance to allow a 5' setback, Mr. Lear noted that the currently approved zoning and development plan for the property both allow that setback. The sole purpose for requesting that variance was to allow the single-family residence to have that 5' setback as well.

With regard to Ms. Copeland's suggestion to require that the side yard be visible to pedestrians, Mr. Lear stated that the owner of the single-family residence is proposing to construct a waist-high wall with wrought iron above it, so the side yard would be visible, but that issue would be more appropriately handled by the BOAR during their consideration of the design details proposed for the site. He noted that, prior to his purchase of most of the properties along Lawrence Street, it was very much like a tunnel, with wood stockade fences along both sides of the street. He believes that the street will have much more open space after the subject properties are developed, with many open courtyards and side yards.

Commission Comments: Ms. Copeland stated that she had spoken with the staff of the Historic Preservation Division, and they had indicated that the property owner, rather than the BOAR, would control the use of the open space on the subject property. Mr. Lear responded that the Historic Preservation staff was referring to the development plan, not the built improvements. The BOAR will have control of the design for all of those built improvements, but not the use of the property.

Mr. Owens stated that he appreciated Ms. Copeland's suggestions, and the photographs she presented. He said that he believes that the development of the subject property will be handled properly since it will be under the control of the BOAR.

Zoning Action: A motion was made by Mr. Owens, seconded by Mr. Cravens, and carried 8-0 (Beatty, Brewer, and Paulsen absent) to approve MARV 2011-2, for the reasons provided by staff in their revised recommendation.

Variance Action: A motion was made by Mr. Owens, seconded by Mr. Cravens, and carried 8-0 (Beatty, Brewer, and Paulsen absent) to approve the requested front yard and driveway width variances, for the reasons provided by staff in their revised recommendation, and subject to the conditions as recommended by staff.

Development Plan Action: A motion was made by Mr. Owens, seconded Mr. Cravens, and carried 8-0 (Beatty, Brewer, and Paulsen absent) to approve ZDP 2011-2, subject to the 13 conditions as listed in the revised staff recommendation, and adding a new condition #14 to denote the conditional zoning restrictions.

VI. COMMISSION ITEMS

A. PFR 2011-1: FAYETTE COUNTY PUBLIC SCHOOLS (MARY TODD ELEMENTARY) – a Public Facility Review of the expansion and renovation of the elementary school located at 551 Parkside Drive. (Council District 6)

Staff Report: Ms. Rackers presented the staff report on this Public Facility Review, briefly orienting the Commission to the location of the subject property. She said that the subject property is zoned R-1C with a small area of R-1T zoning. Most of the surrounding area is zoned R-1C and is occupied by a church, a park, and residential uses—both single-family and multi-family. The subject property is 15 acres in size, and the existing building is approximately 66,000 square feet in size. Fayette County Public Schools is proposing to add approximately 2,000 square feet to the existing building. There are currently two accesses to the property from Parkside Drive, which are proposed to remain after the renovation of the facility. There are also 104 parking spaces on site.

Ms. Rackers stated that the Land Use Element of the 2007 Comprehensive Plan recommends Public Education land use for the property, which is reflective of its historic and current use as an elementary school. The Public Education land use category includes all public school facilities as well as the central office and any accessory facilities related to the public. Ms. Rackers noted that there is no portion of the Comprehensive Plan that is in opposition to the proposed renovation of this elementary school. In fact, the Land Use Element, the text, and the Goals and Objectives are all in support of the proposal. Mary Todd Elementary was one of the schools listed in the Plan with a condition of “fair.” All of the schools listed as “poor” or “poor to fair” have been through the public facility process, many of which have completed construction. FCPS is currently preparing for the renovation of all the schools listed as “fair.” All of those schools are being brought up to modern standards, which is part of the FCPS’ goal of becoming a world-class school system by 2020.

Ms. Rackers said that FCPS is ready to begin construction on the school, and they will be putting the contract out to bid within the next month. They anticipate that construction should begin by June, 2011, and should be completed by December, 2012. The school will be completely renovated, and an expansion will be constructed to accommodate the relocation of the media center and administrative suites. The entire roof is proposed to be replaced, with design features to direct runoff to the proposed new detention basin on the property. FCPS plans to completely renovate all of the mechanical and lighting systems; the storm and sanitary sewers; the classrooms, gym, cafeteria, and restrooms; and redesign the bus loop. A small amount of additional paving will be required to accommodate the redesigned bus loop and pave the portion of the parking lot adjacent to the building addition. Upon completion of the renovation, the school will be able to accommodate 550 students. Since the storm and sanitary sewer systems will be upgraded, FCPS does not anticipate any negative impact of the construction on the subject property or surrounding neighborhood.

Ms. Rackers stated that the staff is recommending approval of this Public Facility Review, subject to the following recommendation:

1. Even though the Fayette County Public School System is exempt from Zoning Ordinance requirements, it must still comply with State Building Code requirements. It is therefore recommended that any applicable permits be obtained from the Division of Building Inspection prior to commencing construction/remodeling of the school and grounds; and that a plan for storm water management be submitted to, and accepted by, the Division of Engineering prior to issuance of any permits for construction.

Ms. Rackers added that the staff is also recommending that FCPS employ Best Management Practices in all phases of this renovation/addition process.

Commission Questions: Mr. Holmes asked if FCPS considered using innovative site design like rain gardens or permeable pavers to help manage stormwater on the subject property, noting that they should show leadership in site design with use of these ways to manage runoff. Tim Murphy, architect, stated that he could communicate that request to FCPS.

Ms. Roche-Phillips asked if there were existing points of pedestrian ingress/egress around the play yard, and if FCPS intends to provide those if they do not currently exist. Mr. Murphy answered that there are numerous existing ingress points to the campus, with staff members stationed at each point for the safety of the students. He added that all of the existing accesses will be maintained, but he was not sure about the staff’s future management plan for those accesses.

Mr. Owens asked if FCPS is seeking LEED certification for this renovation project. Mr. Murphy answered that he believed that FCPS was seeking LEED certification for some new construction projects; but this project, although using many energy improvement standards, is not seeking that certification.

Ms. Roche-Phillips asked if the proposed renovation project would help to lower the total carbon footprint of the school system. Mr. Murphy responded that the complete replacement of all the systems with more energy efficient versions should reduce the carbon footprint, but he did not have hard data with regard to that issue. He added that FCPS is paying as much attention as possible to lowering their carbon footprint overall.

Action: A motion was made by Ms. Roche-Phillips, seconded by Ms. Blanton, and carried 8-0 (Beatty, Brewer, and Paulsen absent) to approve PFR 2011-1, subject to the recommendation by the staff.

VI. **STAFF ITEMS** – No such items were presented.

VIII. **AUDIENCE ITEMS** – No such items were presented.

IX. **MEETING DATES FOR FEBRUARY, 2011**

Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	February 3, 2011
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (101 East Vine Street).....	February 3, 2011
Subdivision Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	February 10, 2011
Work Session, Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	February 17, 2011
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	February 23, 2011
Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	February 24, 2011

X. **ADJOURNMENT** – There being no further business, Chairperson Richardson declared the meeting adjourned at 2:46 p.m.

TLW/TM/BJR/BS/src